



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 18, 2004

Ms. J. Middlebrooks  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2004-9830

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 213206.

The Dallas Police Department (the "department") received a request for information related to the internal affairs investigation of a named officer, excluding information regarding the officer's social security number, health, family, and home address. You claim that some of the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, including section 1703.306 of the Occupations Code. Section 1703.306(b) provides that "[a] governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information." Occ. Code § 1703.306(b). Thus, the department must withhold the submitted polygraph examination reports in their

---

<sup>1</sup> We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

entirety and the polygraph information we have marked under section 552.101 of the Government Code in conjunction with section 1703.306(b) of the Occupations Code.

While the requestor specifically excludes the named officer's personal information from his request, we note that the submitted information includes family member information of other peace officers. Section 552.117(a)(2) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure. Thus, the department must withhold from disclosure the marked officers' family information pursuant to section 552.117(a)(2).

Finally, the submitted information includes the named officer's employee number. You state that this number is used as a city credit account number. Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. The department must, therefore, withhold the marked employee number under section 552.136.

In summary, we conclude that the marked polygraph information must be withheld from disclosure under section 552.101 in conjunction with section 1703.306 of the Occupations Code. The marked officers' family information must be withheld from disclosure under section 552.117. The marked employee number must be withheld from disclosure under section 552.136. The remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

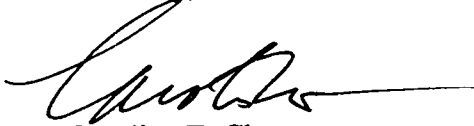
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Caroline E. Cho  
Assistant Attorney General  
Open Records Division

CEC/sdk

Ref: ID# 213206

Enc. Submitted documents

c: Mr. Michael Grabell  
Staff Writer  
The Dallas Morning News  
P.O. Box 655237  
Dallas, Texas 75265  
(w/o enclosures)